

# THE MARTHA'S VINEYARD COMMISSION

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BOX 1447, OAK BLUFFS, MASSACHUSETTS, 02557, 508-693-3453, FAX 508-693-7894

## Minutes of the Special Meeting of March 11, 2004

Held in the Stone Building,  
33 New York Avenue, Oak Bluffs, MA

### IN ATTENDANCE

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**Commissioners:** James Athearn (Elected – Edgartown), John Best (Elected – Tisbury), Christina Brown (Elected - Edgartown), Katherine Newman (Appointed – Aquinnah), Ned Orleans (Appointed - Tisbury), Megan Ottens-Sargent (Elected - Aquinnah), Robert Schwartz (Appointed – West Tisbury), Doug Sederholm (Elected-Chilmark), Linda Sibley, (Elected – West Tisbury), Paul Strauss (Appointed – County), Richard Toole (Elected – Oak Bluffs)

**Staff:** Jo-Ann Taylor (DCPC Coordinator), Mark London (Executive Director), Bill Veno (Senior Planner)

### 1. ISLAND ROAD DISTRICT – PROPOSED BOUNDARY CHANGE

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*Commissioners present: J Athearn, J. Best, C. Brown, K. Newman, N. Orleans, M. Ottens-Sargent, R. Schwartz, D. Sederholm, L. Sibley, P. Strauss, R. Toole*

**Jo-Ann Taylor** explained the process.

- A boundary amendment is treated as a new nomination. It is a two-step process.
  1. The Commission will vote whether to accept the nomination for consideration.
  2. If accepted for consideration, then within sixty days, the Commission would hold a public hearing followed by a vote on whether to amend the district boundary to accept the changes to the Island Road District
- If the nomination is accepted, a building moratorium goes into effect immediately in the nominated area until the amendment is voted on, in this case at Town Meeting.

- She noted that the Commission had received a letter on the proposed boundary changes and the author requested that the letter be considered at this meeting.

*Linda Sibley moved and it was duly seconded that the Commission accept the proposed boundary amendment for consideration.*

Alan Wilson from the Edgartown Planning Board explained nomination.

- The Island Road District was established in 1975.
- In reviewing the Island Road District it became apparent that some rural roads that should have been part of the district were not included.
- The Board is attempting to maintain the rural character of the roads.
- The Board held two public hearings on the question.

*Roll call vote. In favor: J. Athearn, J. Best, K. Newman, N. Orleans, M. Ottens-Sargent, B. Schwartz, D. Sederholm, L. Sibley, P. Strauss, R. Toole. Opposed: None. Abstentions: C. Brown. The motion carried.*

A DCPC Exemptions Committee district committee must be set up to consider applications for exemptions from the building permit moratorium which will be in place until Edgartown Town Meeting. The creation of the committee will be left until the next meeting.

## 2. COPELAND DISTRICT - PROPOSED BOUNDARY CHANGE

*Commissioners present: J Athearn, J. Best, C. Brown, K. Newman, N. Orleans, M. Ottens-Sargent, R. Schwartz, D. Sederholm, L. Sibley, P. Strauss, R. Toole*

Jo-Ann Taylor explained the nomination.

- The Copeland District has been in effect since 1991 and has been enlarged previously.
- The current proposal from the Oak Bluffs Planning Board is to enlarge the district, primarily to allow architectural review of projects in the area.
- As a Victorian area, the intended control will not be very strict, but including it in the DCPC will allow some basic design guidance.
- As with the proposed enlargement to the Island Roads District in Edgartown, the process for enlarging the district requires that the commission vote on whether to accept the nomination for consideration, a public hearing is held, the commission votes on whether to accept the nomination, which is then brought to Town Meeting.
- In response to a question from John Best, Jo-Ann said that the enlargement of the district would include any project at the Surfside Motel. The regulations would apply to new construction and to renovations.

*Richard Toole moved and it was duly seconded that the proposed boundary amendment be accepted for consideration. Roll call vote. In favor: J. Athearn, J. Best, C. Brown, K. Newman, N. Orleans. M. Ottens-Sargent, B. Schwartz, D. Sederholm, L. Sibley, P. Strauss, R. Toole. Opposed: None. Abstentions: None. The motion carried.*

### **3. COLEMAN SUBDIVISION – WRITTEN DECISION**

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*Doug Sederholm recused himself and left the room.*

*Commissioners present: J Athearn, J. Best, C. Brown, K. Newman, N. Orleans, M. Ottens-Sargent, R. Schwartz, L. Sibley, P. Strauss, R. Toole*

**Jim Athearn** said he believed that the Commission had referenced a condition that dealt with construction on the ridge stating that it would conform to Chilmark Planning Board guidelines.

**Christina Brown** recalled that the consensus was to make a recommendation, not a formal condition, because the Commission did not want to make it a condition that the building be subject to the planning board.

**Jo-Ann** read draft condition number eight.

**Linda Sibley** said that even if a formal motion hadn't been made, it was clear that there was consensus that this reference should be included.

It was agreed that the reference should be to "the satisfaction of the Planning Board", not the Building Inspector.

The condition should read:

*"Should a house be located on or near the ridge on Lot 2A, in order to minimize the visual impact from neighboring properties, the owner shall demonstrate to the satisfaction of the Chilmark Planning Board that the owner has worked in good faith to make siting and design features according to the Chilmark Planning Board Development Guidelines."*

*Christina Brown moved and it was duly seconded that the draft written decision including condition number eight, as amended, be accepted as correctly reflecting the oral vote. Roll call vote. In favor: J Athearn, J. Best, C. Brown, K. Newman, M. Ottens-Sargent, R. Schwartz, L. Sibley, P. Strauss. Opposed: None. Abstentions: N. Orleans, D. Sederholm, R. Toole. The motion carried.*

#### 4. B.A.D.D. SUBDIVISION – DELIBERATION AND DECISION

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*Jim Athearn and Megan Ottens-Sargent recused themselves and left the room. Linda Sibley assumed the chair.*

*Commissioners present: J. Best, C. Brown, K. Newman, N. Orleans, R. Schwartz, D. Sederholm, L. Sibley, P. Strauss, R. Toole*

**Mark London** said that the Commission decided on this application on February 5, 2004. At that meeting, there was a bare quorum including Deacon Perotta who has since resigned from the Commission since his eligibility had been questioned. Although Commission counsel has indicated that the decision should still be legally sound, it was decided to hold a new vote.

**Richard Toole** read the report from LUPC: *At its January 26, 2004 meeting, the Land Use Planning Committee voted to recommend that the application for B.A.D.D. Company subdivision be approved with conditions.*

*In making this recommendation, the LUPC noted that this particular site, the former Grant's Pit, is presently in a severely degraded state and has no significant vegetation or other natural features. In the opinion of committee members, the proposed subdivision of land is appropriate on this property in that it does not create any untoward traffic or environmental impacts and it would be an improvement over the former use and disturbed appearance of the site.*

*The following are the proposed conditions.*

- 1. There shall be no more than 32 buildable lots in the subdivision.*
- 2. The project will be completed in three phases:*
  - a. Phase 1 – lots 2-7*
  - b. Phase 2 – lots 8-18*
  - c. Phase 3 – lots 1 and 19-32*  
*(Lot numbers depicted on "Plan of Land in Edgartown, Mass." Dated February 21, 2003 and faxed to MVC on 1/26/04)*
- 3. Prior to the release of lots for sale in Phase 3, the grading of the Phase 3 lots will be reviewed and approved by the LUPC and the Edgartown Planning Board. The grading shall result in an elevation of no less than fifteen feet (15').*
- 4. Lot 1 shall have a minimum of 1.5 acres of open space accessible to residents of the subdivision, to be created prior to the release of lots for sale in Phase 3.*
- 5. There shall be no more than 66 bedrooms in Phases 1 and 2, and all homes constructed in Phase 3 shall have advanced denitrifying systems.*
- 6. If the applicant proposes to combine lots resulting in fewer than 32 lots, they shall not have to return to the Martha's Vineyard Commission for*

approval. If lots are combined, the total number of bedrooms in Phases 1 and 2 shall not exceed 66, and the total land area included in each phase shall not change.

7. As offered by the applicant, there shall be three affordable housing lots given to the Edgartown Resident Homesite Committee or its assigns, two lots (9 & 10) prior to the release of lots for sale in Phase 2 and one lot (23) prior to the release of lots for sale in Phase 3. The affordable housing lots shall be deed restricted to remain affordable in perpetuity. Any combining of lots resulting in the reduction of the total number in the subdivision shall not affect the total number of affordable housing lots given.
8. Town water shall be provided throughout the subdivision and a pipe shall be run along Crocker Drive to the end of the subdivision to allow neighbors to tie in if they desire, at their own expense.
9. There shall be no street lighting. Residential lighting shall be restricted to that required by building code and motion-sensitive security lighting; all such lighting to be shielded down-lighting only.
10. The Best Management Plan as submitted by the Applicant and endorsed by the Edgartown Board of Health shall be implemented within 90 days of the Edgartown Planning Board's final approval of the subdivision.
11. There shall be a public trail easement along the length of the southwest side of the property.

**Christina Brown** added that at the LUPC meeting, an offer was made by the applicant that is part of the approval with respect to a potable water supply. There shall be Town water provided throughout the subdivision. The supply line is along Crocker Drive to the end of the subdivision in order to let residents outside the subdivision connect to the Town water supply at the expense of those owners.

**Linda Sibley** clarified that **Richard Toole** had read the original LUPC recommendation and that amendments to the conditions would have to be voted on.

**Alan Wilson** asked whether oil spill issues will be dealt with. **Christina Brown** indicated that the oil spill issues are part of the Best Management Plan worked out with the Board of Health and the applicant.

*Richard Toole moved and it was duly seconded that the B.A.D.D. Subdivision be approved with the conditions recommended by the LUPC.*

*Doug Sederholm moved and it was duly seconded that the number of bedrooms in Phases I and II be reduced from 66 to 60. Voice vote. In favor: 9. Opposed: 0. Abstentions: 0. The motion carried.*

*John Best moved and it was duly seconded that there shall be no more than 4 bedrooms on each lot with the presently proposed number of lots in each phase, and*

*that each lot's bedroom allotment shall be recorded with the Board of Health when the subdivision is approved and not be increased thereafter. Should the number of lots in a phase be reduced, with lots redivided, the number of bedrooms should be redistributed as equally as possible between the lots.*

- John Best clarified that the Board of Health will designate the number of bedrooms per lot.

*Voice vote. In favor: 9. Opposed: 0. Abstentions: 0. The motion carried.*

*A roll call vote was taken on the main motion. In favor: J. Best, C. Brown, K. Newman, N. Orleans, R. Schwartz, D. Sederholm, L. Sibley, P. Strauss, R. Toole. Opposed: None. Abstentions: none. The motion to approve the subdivision as conditioned carried.*

#### **4. B.A.D.D. SUBDIVISION – WRITTEN DECISION**

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*John Best moved and it was duly seconded that the draft written decision be accepted as correctly reflecting the oral vote.*

Recess from 8:35-8:40.

Bill Veno pointed out that the date on the written decision needs to be changed to March 11, 2004.

*Roll call vote: In favor: J. Best, C. Brown, K. Newman, N. Orleans, R. Schwartz, D. Sederholm, L. Sibley, P. Strauss, R. Toole. Opposed: None. Abstentions: none. The motion to approve the draft written decision was approved.*

#### **5. MINUTES**

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*Christina Brown moved and it was duly seconded that the minutes of January 8, 2004 be adopted.*

The Commission accepted the following corrections submitted by Jane A. Greene and read by Bill Veno:

- page 1, Line 28 should read “declared a conflict of interest”
- page 2, Line 7 should end with “there had been a cement and asphalt plant there”, striking the following sentence.
- page 2, Line 14 should read “this plant had been presented to the Katama Association” and strike the sentence following “Association”
- page 2, line 31 should read “the construction portion of the business will get smaller and smaller”

- page 3, Line 6 should read “properties along Crocker Drive”
- page 3, Line 44 the ‘I’ should be capitalized
- page 4, Line 24 should read “from the present 42 peak hour trips to a total of 46” or as stated in the consultant’s report.

***Voice vote. In favor: 8. Opposed: 0. Abstentions: 3. The motion carried.***

***John Best moved and it was duly seconded that the minutes of January 15, 2004 be adopted.***

The Commission accepted the following corrections submitted by Jane A. Greene and read by Bill Venio:

- page 1, line 41 should read “will each be added to an existing lot”
- page 2, line 5-8 should read “thus the total would be six”???
- page 2, line 28 should read “if there were ever another house”
- page 2, line 31-33 should read “maintenance could be done in either of two ways” [check]
- page 3, line 36 should read “would see each of the two”
- page 4, line 5 should read “John Flender indicated”
- page 4, line 7 should read “Russell Walton of the Chilmark Planning Board”
- page 5, line 36 should read “if all of Coleman’s property”
- page 5, line 39 should read “the trail easement”

***Voice vote. In favor: 7. Opposed: 0. Abstentions: 4. The motion carried.***

***Linda Sibley moved and it was duly seconded that the minutes of January 2, 2004 be adopted.***

page 1, lines 26 and 27 should read “represented the Chilmark Planning Board in a previous application by the Colemans”

- page 3, line 19 should read “the buyer of this property would insist on it”
- page 3, line 41 should read “In response to a question from Mark London, Angela Gompert, being
- part owner”

***Voice vote. In favor: 11. Opposed: 0. Abstentions: 0. The motion carried.***

***Richard Toole moved and it was duly seconded that the minutes of February 5, 2004 be adopted.***

- page 4, line 34 should read “donors”
- page 6, line 9 should read “this Commission has made difficult decisions”

***Voice vote. In favor: 8. Opposed: 0. Abstentions: 3. The motion carried.***

## **6. UPCOMING LUPC MEETINGS AND SITE VISITS**

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For site visits, it would be useful to have clearer indications of the location of site visits and an obvious marker (flag, balloon or pink flamingo) to indicate that a site visit is

taking place. After Daylight Savings Time starts, the LUPC could start having site visits in the late afternoon.

Monday, March 15, 2004: Site visit to 4 Causeway at the corner of State Road at 8:15 and 8:45 a.m.

Monday, March 15, 2004: Pre-referral site review at Surfside Motel.

The Commission discussed the site visit to Pennywise Path. **Mark London** will set the date of site visit for after the pre-hearing LUPC meeting.

## **7. OTHER BUSINESS**

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### **7.1 Staff**

**Mark London** welcomed Paul Foley as new staff DRI analyst.

### **7.2 Citizens Planner Training Collaborative**

**Mark London** noted that March 12 is the last day to sign up for the conference on Saturday, March 20.

### **7.3 Sustainability workshop**

**Jim Athearn** noted that there will be a Sustainability Workshop, sponsored by Polly Hill Arboretum, also on Saturday, March 20.

### **7.4 Commission Anniversary**

**Mark London** noted that on March 14, 1974, all Island towns voted to create the Martha's Vineyard Commission. The actual creation was later in the year. The Commission should discuss how to celebrate this anniversary.

The meeting adjourned at 9:35 p.m.

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Chairman

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Date

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Clerk-Treasurer

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Date